

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: August 27, 2014

Approved



Date

9/4/14

SUBJECT: PROPOSED ORDINANCE TO AMEND THE SEWER USE REGULATIONS

RECOMMENDATION

Approve an ordinance amending Chapter 15.14 of Title 15 of the San Jose Municipal Code to add a new Section 15.14.248 and amend Section 15.14.755 to add a new definition of the Clean Water Act and modify permit conditions to allow the transfer of discharge permits in the event of a change of ownership.

OUTCOME

Approval of the proposed Ordinance will ensure the City of San José is consistent with federal regulations governing pretreatment programs, and improve the Environmental Services Department's (ESD) ability to effectively permit industrial dischargers.

BACKGROUND

The federal Clean Water Act establishes water quality standards for water bodies such as streams, rivers, bays, and oceans. In addition, the law created the National Pollution Discharge Elimination System (NPDES) Permit program to control the discharge of pollutants from sources, both direct dischargers like the Regional Wastewater Facility (referred to as "Point Source"), and indirect dischargers such as industrial and commercial facilities (referred to as "non-point sources"). Wastewater treatment plants are designed primarily to treat domestic waste and traditional pollutants such as organic material, oil and grease, and pH. Industrial pollutants such as heavy metals, solvents, and other chemicals are difficult and expensive to treat using standard treatment methods. Under the Clean Water Act, wastewater treatment plants above a certain capacity are required to regulate industrial dischargers to prohibit or severely restrict discharges of industrial pollutants in order to protect the health and safety of operations and maintenance staff, the integrity of infrastructure and treatment processes, and the health of the

receiving waters. Since 1989, the City of San José (City) has implemented a pretreatment program for the Regional Wastewater Facility's 300-square mile service area.

ANALYSIS

As the City monitors and partners with industrial users in the service area to implement the pretreatment program, state and federal regulators do the same with the City. A significant component of monitoring and oversight under the NPDES permit program is regular inspection of facilities, processes, and procedures. The City is also subject to audits and inspections to evaluate the effectiveness and compliance of its pretreatment program. Recently, the Pretreatment Program has undergone evaluations by regulators from the Environmental Protection Agency (EPA). These evaluations entail review and quality control and adequacy of the sewer use ordinance. The following are the revisions needed to parts of Chapter 15 of the San José Municipal Code.

Sewer Use Ordinance Revisions

The proposed Ordinance updates Chapter 15.14.248 and 15.14.755 to include language that expressly reference:

- Adding the definition for Clean Water Act.

Following an EPA evaluation in 2013, the City was required to add a definition for Clean Water Act to its Ordinance. Adding this definition will further clarify the City's authority to implement a pretreatment program.

- Clarify language for transfer of a discharge permit.

During EPA evaluations in 2013 and 2014, it was observed the City's prohibition of discharge permit transfers presents a challenge in regulatory oversight during changes in ownership at regulated industries. Under the current Ordinance, discharge permits are not transferable and are immediately cancelled in the event of a change of ownership. Under Federal law, discharge permits may be transferred in the event of a change of ownership with prior notification to and approval from the control authority. Updating the Ordinance to allow discharge permit transfers will allow the City to maintain regulatory authority over industrial users and allow industrial users to continue to legally discharge during a change in ownership until a new discharge permit is issued.

EVALUATION AND FOLLOW UP

No additional follow-up actions with the Council are expected at this time. Staff will monitor the impact of these actions and report any issues to the Council as appropriate.

HONORABLE MAYOR AND CITY COUNCIL

August 27, 2014

Subject: Revision to Sewer Use Hauling Liquid Waste Ordinance.

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PUBLIC OUTREACH

This memorandum will be posted on the City's website for the September 16, 2014 City Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COST IMPLICATIONS

There are no cost implications to the City as a result of these actions. Although some penalties amounts are proposed, the majority of the proposed changes to Ordinance.

CEQA

Not a Project, File No. PP11-106.

/s/

KERRIE ROMANOW

Director, Environmental Services Department

For questions please contact Casey Fitzgerald, Pretreatment Program Manager, Environmental Services Department, at 408-793-5378.